

[NOTE TO THE PUBLIC: The draft proposed regulations below are intended to implement Labor Code Section 4603.4 (set forth below) that was adopted as part of AB 749 (Calderon), the omnibus workers' compensation reform bill passed in 2002. The regulations are intended to adopt standardized billing forms and mandate claims administrators' acceptance of electronic billings by providers. The Division welcomes public comment on these proposals.]

Labor Code § 4603.4.

- (a) The administrative director shall adopt rules and regulations to do all of the following:
 - (1) Ensure that all health care providers and facilities submit medical bills for payment on standardized forms.
 - (2) Require acceptance by employers of electronic claims for payment of medical services.
 - (3) Ensure confidentiality of medical information submitted on electronic claims for payment of medical services.
- (b) To the extent feasible, standards adopted pursuant to subdivision (a) shall be consistent with existing standards under the federal Health Insurance Portability and Accountability Act of 1996.

Chapter 4.5 Division of Workers' Compensation Subchapter 1 Administrative Director – Administrative Rules

Article 5 Transfer of Medical Treatment

Section 9784 – Duties of the Employer

In addition to the duty of the employer to give notice pursuant to Sections 9782 or 9880, upon being notified of the name and address of the employee-selected physician or facility, the employer, after treatment has commenced, shall promptly authorize such physician or facility to provide all medical treatment reasonably required to cure or relieve the employee from the effects of the industrial injury. ~~furnish the name and address of the person to whom billing for treatment should be sent, and provide such other information as is required by this Article.~~ The employer shall also promptly furnish in writing to the employee-selected physician or facility:

- (a) The complete requirements of Section 9785;

(b) The complete requirements of Section 9792.2.; and

(c) The name, mailing address, and electronic address, if available, of the person to whom billing for treatment should be sent.

The employer shall also arrange for the delivery to the selected physician or facility of all medical information relating to the claim, all X-rays and the results of all laboratory studies done in relation to the injured employee's treatment.

If the employee-selected physician or facility fails to provide adequate medical reports pursuant to Section 9785, the employer shall promptly notify said physician or facility of the requirements of Section 9785.

Section 9785 – Reporting Duties of the Primary Treating Physician

(d) The primary treating physician shall render opinions on all medical issues necessary to determine the employee's eligibility for compensation in the manner prescribed in subdivisions (e), (f) and (g) of this section. The primary treating physician may transmit reports to the claims administrator by mail, e-mail, electronic transmission, or FAX or by any other means satisfactory to the claims administrator, ~~including electronic transmission.~~

Article 5.5

Application of the Official Medical Fee Schedule (Treatment)

Section 9792.2 – Standardized Billing / Electronic Billing (Proposed)

(a) As used in this section:

(1) “CMS” means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, formerly known as the Health Care Financing Administration of the U.S. Department of Health and Human Services. (“HCFA”).

(2) "Electronic Standard Format" means the ASCX12N standard format developed by the Accredited Standards Committee X12N Insurance Subcommittee of the American National Standards Institute and the retail pharmacy specifications developed by the NCPDP.

(3) “Employer” has the same meaning specified in subdivision (a) of Section 9780.

- (4) "Health Care Provider" means a provider of medical services, including but not limited to an individual provider, a health care service plan, a health care organization, or a preferred provider organization.
- (5) "Health Facility" means any facility as defined in Section 1250 of the Health and Safety Code, any surgical facility which is licensed under subdivision (b) of Section 1204 of the Health and Safety Code, any outpatient setting as defined in Section 1248 of the Health and Safety Code, or any ambulatory surgical center that is certified to participate in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act.
- (6) "Medical Services" means those goods and services provided pursuant to Article 2 (commencing with Section 4600) of Chapter 2 of Part 2 of Division 4 of the Labor Code.
- (7) "Medical Treatment" means the treatment to which an employee is entitled under Labor Code Section 4600.
- (8) "NCPDP" means the National Council for Prescription Drug Programs.
- (9) "Physician" has the same meaning specified in Labor Code Section 3209.3.
- (10) "Uniform Claim Forms" are defined as:
- (A) "Form HCFA-1500 or Form CMS-1500 (12-90)" means the health insurance claim form maintained by CMS for use by health care providers.
 - (B) "CMS Form 1450" or "UB92" means the health insurance claim form maintained by CMS for use by health facilities and institutional care providers.
 - (C) "American Dental Association, 1999 Version 2000" means the uniform dental claim form approved by the American Dental Association for use by dentists.
 - (D) "NCPDP Universal Claim Form" means the NCPDP claim form or its electronic counterpart.
- (11) Uniform Claim Codes are defined as:

- (A) "ASA Codes" means the codes contained in the ASA Relative Value Guide developed and maintained by the American Society of Anesthesiologists to describe anesthesia services and related modifiers.
- (B) "California Codes" means those codes adopted by the Administrative Director for use in the Official Medical Fee Schedule (Title 8, California Code of Regulations § 9791.1).
- (C) "CDT-1 Codes" means the current dental terminology prescribed by the American Dental Association.
- (D) "CPT-4 Codes" means the procedural terminology and codes contained in the "Current Procedural Terminology, Fourth Edition," as published by the American Medical Association.
- (E) "HCPCS" means CMS' Common Procedure Coding System, a coding system which describes products, supplies, procedures and health professional services and includes, the American Medical Associations (AMA's) Physician "Current Procedural Terminology, Fourth Edition" (CPT-4) codes, alphanumeric codes, and related modifiers. This includes:
 - (i) "HCPCS Level I Codes" which are the AMA's CPT-4 codes and modifiers for professional services and procedures.
 - (ii) "HCPCS Level II Codes" which are national alphanumeric codes and modifiers for health care products and supplies, as well as some codes for professional services not included in the AMA's CPT-4.
 - (iii) "HCPCS Level III Codes" which are the codes for services needed by individual contractors or state agencies to process claims. They are used for items and services not having the frequency of use, geographic distribution, or general applicability needed to justify a code assignment at a higher level.
- (F) "ICD-9-CM Codes" means the diagnosis and procedure codes in the International Classification of Diseases, Ninth revision, clinical modifications published by the U.S. Department of Health and Human Services.

- (G) "NDC" means the National Drug Codes of the Food and Drug Administration.
 - (H) "UB92 Codes" means the code structure and instructions established for use by the National Uniform Billing Committee.
- (b) On and after January 1, 2004, all physicians, health care providers, and health care facilities providing medical treatment and/or medical services shall submit medical bills for payment on the uniform claim forms prescribed in this section completed with the uniform claim codes. All information on the uniform claim forms shall be legible when submitted.
 - (1) For all covered medical services provided or authorized by the treating physician, health care providers shall submit medical bills using the Form HCFA/CMS 1500.
 - (2) Health facilities shall submit bills using the Form HCFA/CMS1450 (or UB92) for institution services and the Form HCFA/CMS 1500 for professional services.
 - (3) Dentists shall submit bills using the American Dental Association, 1999 Version 2000.
 - (4) Pharmacists shall submit bills using the "NCPDP Universal Claim Form" or the electronic claims procedures endorsed by the NCPDP.
- (c) Employers shall accept uniform claim forms that are submitted electronically by health providers in the electronic standard format. Employers may reject electronically submitted uniform claim forms that are not transmitted in the electronic standard format.
- (d) This section does not prohibit an employer from reasonably requesting additional information that is necessary to administer the claim. "Necessary" information is that which directly affects the provision of compensation benefits as defined in Labor Code Section 3207.
- (e) This section does not prohibit an employer or physician from using alternative forms or procedures provided such forms or procedures are specified in a written agreement between the employer and the physician.
- (f) All individually identifiable health information contained on a uniform claim form shall not be disclosed by either the employer or submitting health provider or health facility except where disclosure is required by law or necessary to confer compensation benefits as defined in Labor Code

Section 3207. Health providers and employers who create, receive, maintain, or transmit electronic individually identifiable health information shall comply with the standards for the security of electronic protected health information, adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 and set forth at 45 Code of Federal Regulations Parts 160, 162, and 164. See 68 Federal Register 8333 ("Final Rule").